

## REMARKS/ARGUMENTS

This amendment is submitted in response to the Office Action dated October 5, 2010. After entry of this amendment, Claims 5, 9 and 11 will be pending in the Application. The independent Claim 11 is a newly added claim. Claims 6-8 and 10 were deleted. Reconsideration and allowance is respectfully requested in view of the remarks made below.

### 1. **Claim Rejections under 35 U.S.C. § 103 (a)**

Claims 5-8 and 10 were rejected as unpatentable over Reissue Patent No. RX 00026 to Williamson, in view of Haedike, U.S. Patent No. 3,236,172. The Applicant believes that the amended independent claim 5 and the newly added independent claim 11 are not obvious in light of either the Williamson or Haedike patents, alone or in combination. The Williamson device requires that the firebox ride on support rails EW EW that are limited in length by the extent of the hearth plate EE', wherein the hearth plate is permanently attached to the enclosure structure of the cooking stove. The hearth plate limits the Williamson firebox from being completely disassociated from the cooking enclosure should a grease fire or other reason create a need to expeditiously remove and disassociate the firebox completely from the stove enclosure. For example, if a grease fire erupted within the Williamson firebox, a user would be able to roll the firebox away from the cooking stove only to the edge of the hearth plate, thereby severely limiting the extent of removing the grease fire. As Figure 1 of Williamson shows, a complete dissociation of the firebox away from the cooking stove could not be accomplished unless a user dangerously attempted to further handle the firebox and take it down off of its perch upon the hearth plate. When a grease fire is raging, it is the intent of the invention to allow an expeditious and complete disassociation of the firebox from the enclosure so that the fire can be extinguished

safely and without the internal structure of the enclosure from also starting on fire. That goal of complete disassociation can only be accomplished with the structure of Williamson when a user dangerously subjects himself to pulling the firebox off of the rails and the hearth plate while a fire rages in his face. Under those conditions, harm to the user would likely result. The Applicant's device is constructed as an independent component that can be readily and completely disassociated from the cooking enclosure since it is not physically limited by any of the components that comprise the barbeque pit enclosure, allowing the firebox to be rolled entirely away from the enclosure. Most often when a grease fire erupts, not only is the firebox enveloped in flames, but so too are the inside walls of the cooking enclosure. Thus, it is critical to quickly and completely disassociate the firebox from the cooking enclosure to allow the inside cooking enclosure walls to be extinguished before the pit is destroyed. Since Williamson's structure limits how far the firebox can be pulled away from the stove structure, a user is prevented from safely reaching a grease fire within the internal walls of the cooking device. Moreover, the Applicant's device allows the firebox to act as a water holding vehicle that promotes the extinguishment of the hot charcoal by allowing a user to drop the charcoal rack directly into the water should a grease fire erupt. Therefore, the water in the firebox performs two functions; one to assist in cooking and one to assist in extinguishing charcoals.

Furthermore, the Applicant's invention would not be obvious in light of the Williamson patent in combination with the Haedike patent because Haedike doesn't present a combined firebox and water containment box as does the present invention. Rather, Haedike has a lower water containment reservoir that requires the use of a pump to dispense water upwards to the top of its cooking device so that it can be heated in a steaming chamber by an electrical heating element so as to create steam in the steaming chamber. The separate steaming structure element

is the only means for cooking food within the Haedike device, whereas the present invention primarily relies upon firewood or charcoals to cook the food and only utilizes any steam that is generated to assist in cooking. Therefore, even though the Haedike device might show a water tight box for holding water, that box does not contain a removable grate for holding the fuel source, nor does it function to generate steam within the same box. Therefore, the present invention cannot be said to be obvious based on the Examiner's combination of the Williamson and Haedike patents because the present invention is structurally different from a combination of those references to the extent that its structural differences cause it to function entirely different than that of either Williamson or Haedike alone, or in combination with each other. For those reasons, the Applicant believes that this rejection is unfounded and should be withdrawn.

**2. Claim Rejections under 35 U.S.C. § 112**

Claim 8 was rejected as being indefinite since it depended upon itself. Since Claim 8 was deleted, this rejection is no longer applicable.

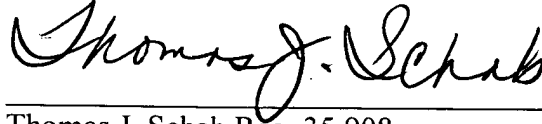
**3. Conclusion**

Applicant believes that the newly added independent Claim 11 and the amended independent Claim 5, when considered as a whole, clearly set forth claim limitations that distinguish the Applicant's device from that of the cited art. For the reasons stated above, the Applicant now sets forth structural and functional aspects that are not found or disclosed within the cited references such that the references cannot be said to make the Applicant's invention obvious. As it is believed that Claims 5 and 11 are now allowable, it is also believed that dependent claim 9 is also allowable too as it depends upon what is believed to be an allowable claim 5. The newly added independent Claim 11 is covered by the Applicant's basic filing fee,

therefore, no additional fees are required for adding that claim. In light of the above, the Applicant respectfully requests consideration and allowance of the application as amended.

Date: December 7, 2010

Respectfully submitted,

A handwritten signature in cursive script, reading "Thomas J. Schab". The signature is written in black ink and is positioned above a horizontal line.

Thomas J. Schab Reg. 35,908

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